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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,558	05/16/2001	Robert W. Tuttrup	2280.2710	1522
5514	7590	12/27/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			FADOK, MARK A	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	

3625

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,558

Applicant(s)

TUTTRUP ET AL.

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

The examiner is in receipt of applicant's response to office action mailed 5/31/2005, which was received 10/3/2005. Acknowledgment is made to the amendment to claims 1,5,9,13,17,22,26, and 31, along with the addition of claim 35 leaving claims 1-35 as pending in the instant application. The examiner has carefully considered the applicant's remarks and amendments but does not find them to be convincing, therefore the previous rejection on the merits, modified as necessitated by amendment, follows:

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3625

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahluwalia (6,728,685) in view of Official Notice.

In regards to claim 1, Ahluwalia discloses a method for delivering goods ordered by a plurality of customers (Abstract), comprising the steps of:

a plurality of customers placing orders for multiple goods from a vendor maintaining a server on a network (FIG 3); and

for each of the multiple goods in an order placed by a given customer, the vendor server determining whether the good is currently available at a local pick-up point geographically close to the given customer (FIG 5):

and for each such good:

(i) in case where the good is currently available at the local pick-up point, the vendor server ear-marking that good for the given customer (FIG 4B), and

Ahluwalia teaches determining if a product is available at a local dealership (col 7, lines 5-15) and if not having the vehicle shipped to the customer selected dealership for sale to the consumer (col 8, lines 10-30, col 18, lines 40-50) specifically mention that the vehicles are combined with other customer orders to the selected dealership. The examiner takes official notice that it was old and well known in the art at the time of the invention to consolidate shipments from manufactures to car dealerships. It would have been obvious to

Art Unit: 3625

a person having ordinary skill in the art at the time of the invention to include in Ahluwalia the consolidation of orders into one shipment to a dealer, because this has been a notoriously well known means for optimizing the usage of a vehicle transport trailer where numerous vehicles shipped to a dealer at one time. Motivation can be found in the ability to save shipping cost and time by not having to unload numerous trucks delivering one vehicle at a time to a dealership.

In regards to claim 2, Ahluwalia teaches wherein the goods are ordered via the Internet (FIG 3)

In regards to claim 3, Ahluwalia teaches notifying the given customer when the order is available for pick-up (FIG 2, status tracking)

In regards to claim 4, Ahluwalia teaches wherein a customer or customer's agent retrieves a collection of goods from the vendor from the local pick-up point (col 19, lines 5-0)

In regards to claim 5, Ahluwalia discloses a method for designating local receipt of items ordered from a vendor at a remote location comprising the steps of

the customer placing an order for multiple items via a sever maintained by a vendor on a network;

the customer providing to the vendor the customer's location via the

Art Unit: 3625

vendor server;

the customer choosing a local pick-up point from among local pickup points offered by the vendor (FIG 26A, selected dealer, item 1655)

for each of the multiple items, the vendor server determining whether the item is currently available at the chosen local pick-up point and for each item:

(i) in case where the item is currently available at the local pick-up point, the vendor server ear-marking that item for the customer, and

(ii) in a case where the item is not currently available at the chosen local pick-up point, the vendor server fulfilling the order by causing the item to be shipped to the local pick-up point

upon receipt of the multiple items at the local pickup point, the customer receiving notification that the order is available for pick-up (see response to claim 1)

In regards to claim 6, Ahluwalia teaches wherein the designation is done via the Internet (see response to claim 2)

In regards to claim 7, Ahluwalia teaches a step of the customer or customer's agent retrieving a collection of goods from the vendor from the local pick-up point (see response to claim 4)

In regards to claim 8, Ahluwalia teaches the customer selecting from among options relating to the pick-up point customized on the basis of the type of items ordered,

Art Unit: 3625

and/or the pick-up capability of the customer (selection of vehicles that are Mercury would be picked up at a Mercury dealership, vehicles that are Jeep would be picked up at a jeep dealership).

In regards to claim 9, Ahluwalia discloses a method for delivering goods ordered by a plurality of customers, comprising the steps of.

a plurality of customers placing orders for multiple goods from a plurality of vendors via servers maintained by the vendors on a network;

for each of the multiple goods in an order placed by a given customer, each vendor fulfilling the order by determining via the respective vendor server if the good is currently available at a local pick-up point geographically close to the given customer, and for each such good:

(i) in a case where the good is currently available at the local pick-up point, the respective vendor server ear-marking that good for the given customer, and

(ii) in a case where the good is not currently available at the local pick-up point, causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by those from among the plurality of customers who are geographically close to respective local pick-up points.

In regards to claim 10, Ahluwalia teaches wherein a customer or customer's agent retrieves a collection of goods from one or more of the plurality of vendors from the local pick-up point (see response to claim 4).

In regards to claim 11, Ahluwalia teaches wherein the orders are placed via the Internet (see response to claim 2).

In regards to claim 12, Ahluwalia teaches the customer selecting from among options relating to the pick-up point customized on the basis of the type of items ordered, and/or the pick-up capability of the customer (see response to claim 11).

In regards to claim 13, Ahluwalia discloses an apparatus for controlling delivery of goods to a plurality of customers, the apparatus comprising:

means for receiving orders for multiple goods, from a plurality of customers;

means for determining, for each of the multiple goods, whether the good is currently available at a local pick-up point geographically close to an ordering customer;

means for fulfilling the ordering customer's order by in a case where the ordered good is not currently available at the local pick-up point,

and for each such good,

(i) in a case where the good is currently available at the local pick-up point, ear-marking that good for the ordering customer, and

(ii) in a case where the good is not currently available at the local pick-up point, fulfilling the ordering customer's order by causing the good to be shipped to the local pick-up point in a shipping order in combination with goods ordered by those from among the plurality of customers who are geographically close to respective local pick-up points.

causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by those from among the plurality of customers who are geographically close to respective local pick-up points.

In regards to claim 14, Ahluwalia teaches wherein the orders are received via the Internet (see response to claim 2).

In regards to claim 15, Ahluwalia teaches wherein a customer or customer's agent retrieves a collection of goods from the local pick-up point.

In regards to claim 16, Ahluwalia teaches means operable to allow the customer to select from among options relating to the pick-up point customized on the basis of the type of items ordered, and/or the pick-up capability of the customer (see response to claim 4).

In regards to claim 17, Ahluwalia discloses a system, having multiple vendors, for allowing the multiple vendors to consolidate shipping of goods to customers, each vendor having an apparatus comprising:

means for receiving orders for multiple goods from a plurality of customers;

means for determining, for each of the multiple goods, the good is currently available at local pick-up points geographically close to ordering customers;

and for each good:

(i) in those cases where the good is currently available at geographically close local pick-up points, ear-marking that good for the ordering customer, and

(i) in those cases where the good is not currently available at geographically close local pick-up points fulfilling the customer's order by causing the good to be shipped to a geographivccally close local pick-up point in an individual shipping order in combination
with goods ordered by those from among the plurality of customers who are geographically close to respective local pick-up points.

In regards to claim 18, Ahluwalia teaches wherein the multiple vendors' apparatuses are connected on a network (see response to claim 2).

In regards to claim 19, Ahluwalia teaches wherein the network is the Internet (see response to claim 2).

In regards to claim 20, Ahluwalia teaches wherein a customer or customer's agent retrieves a collection of goods from the respective local pick-up point (see response to claim 4).

In regards to claim 21, Ahluwalia teaches wherein each vendor's apparatus further comprises:

means operable to allow the customer to select from among options relating to the pick-up point customized on the basis of the type of items ordered, and/or the pick-up capability of the customer (see response to claim 8).

In regards to claim 22, Ahluwalia discloses a shopping server on a network including a plurality of vendor servers and a plurality of customer client terminals, the shopping server being operable to:

receive orders from a customer terminal for purchase of multiple goods;

for each of the multiple goods, communicate with one of the a plurality of local pick-up points in proximity to the customer who ordered the good, to determine if the good is currently available at the local pick-up point; and

for each good

(i) if the good is currently available at the local pick-up point, communicate with one of the vendor servers to ear-mark that good for the customer who ordered the good, and

(ii) if the good is not currently available at the local pick-up point, communicate with one of the vendor servers to cause the good to be shipped to the local pick-up point (see response to claim 1).

In regards to claim 23, Ahluwalia teaches wherein the network is the Internet (see response to claim 2).

In regards to claim 24, Ahluwalia teaches wherein a customer or customer's agent retrieves a collection of goods from the local pick-up point (see response to claim 4).

In regards to claim 25, Ahluwalia teaches wherein the server is further operable to:

allow the customer to select from among options relating to the pickup point customized on the basis of the type of items ordered, and/or the pick-up capability of the customer (see response to claim 8).

In regards to claim 26, Ahluwalia discloses a system, having multiple vendors, for allowing the multiple vendors to consolidate shipping of goods to fulfill customer orders received over a network, each vendor having a network server operable to:

receive orders for multiple goods from a plurality of customers;

determine, for each of the multiple goods, whether the good is currently available at local pick-up points geographically close to ordering customers, and for each such good:

(i) in those cases where the good is currently available at the geographically close pick-up points, ear-marking that good for the ordering customer, and

(i) fulfil the customers' orders by, in those cases where the good is not currently available at geographically close local pick-up points,

causing the good to be shipped to a geographically close local pick-up point in an individual shipping order in combination with goods ordered by those from among the plurality of customers who are geographically close to respective local pick-up points.

In regards to claim 27, Ahluwalia teaches wherein the network is the Internet (see response to claim 2).

In regards to claim 28, Ahluwalia teaches the network server being further operable to:

coordinate with the multiple vendors so as to arrange for shared shipping of ordered goods when respective ones from among the multiple vendors have received orders to be sent to the identical local pick-up points (FIG 7A and 7B).

29. (original) A system according to Claim 26, wherein a customer or customer's agent retrieves a collection of goods from the local pick-up point (see response to claim 4).

In regards to claim 30, Ahluwalia teaches the network server being further operable to allow the customer to select from among options relating to the pick-up point customized on the basis of the type of items ordered, and/or the pick-up capability of the customer.

In regards to claim 31, Ahluwalia discloses Computer code storable on a computer readable medium and executable on a network server, said code comprising: code for receiving orders for multiple goods from a plurality of customers;

code for determining, for each of the multiple goods, whether the good is currently available at a local pick-up point geographically close to the ordering customer, and for each such good;

(i) in a case where the good is currently available at the local pick-up point , ear-marking that good for the ordering customer, and

(i) fulfilling the ordering customer's order by, in a case where the good is not currently available at the local pick-up point,

causing the good to nbe shipped to the local pick-up point in a single shipping order in combination with goods ordered by those from among the plurality of customers who are geographically close to respective local pick-up points.

In regards to claim 32, Ahluwalia teaches wherein the network is the Internet (see response to claim 2).

In regards to claim 33, Ahluwalia teaches wherein a customer or customer's agent retrieves a collection of goods from the local pick-up point (see response to claim 4).

In regards to claim 34, Ahluwalia teaches code to allow the customer to select from among options relating to the pick-up point customized on the basis of the type of items ordered, and/or the pick-up capability of the customer (see response to claim 8).

In regards to claim 35, Ahluwalia discloses a method for delivering goods ordered by a plurality of customers, comprising the steps of:

a plurality of customers placing orders for goods from a vendor, at least one customer order being for multiple goods;

for each of the multiple goods in the at least one customer order, the vendor server determining whether the good is currently available at a local pick-up point geographically close to the ordering customer, and

for each such good:

(i) in a case where the good is currently available at the local pick-up point, the vendor server ear-marking that good for the given customer, and

(ii) in a case where the good is not currently available at the local pick-up point, the vendor server fulfilling the ordering customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by those from among the plurality of customers who are geographically close to the local pick-up point.

Response to Arguments

Applicant's arguments filed 10/3/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "treating multiple goods within an order in a different fashion". Applicant does not claim that the customer order has multiple items, but that multiple goods are purchased by a plurality of customers. It is also clear that applicant is only claiming one case condition at a time, either when the good (singular) is available or when it is not available) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that Ahluwalia does not teach ordering multiple goods and only provides ordering means for a single vehicle. The examiner disagrees and directs the applicant's attention to (FIG 25B, fleet sales).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3625

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(571) 272-7159**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:


(703) 872-9306 [Official communications; including

After Final communications labeled

"Box AF"]

(571) 273-6755 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a long horizontal flourish extending to the right.

Mark Fadok

Patent Examiner